

**§ 105-187.5. Alternate tax for those who rent or lease motor vehicles.**

(a) Election. – A retailer may elect not to pay the tax imposed by this Article at the rate set in G.S. 105-187.3 when applying for a certificate of title for a motor vehicle purchased by the retailer for lease or rental. A retailer who makes this election shall pay a tax on the gross receipts of the lease or rental of the vehicle. The portion of a lease or rental billing or payment that represents any amount applicable to the sales price of a service contract as defined in G.S. 105-164.3 should not be included in the gross receipts subject to the tax imposed by this Article. The charge must be separately stated on documentation given to the purchaser at the time the lease or rental agreement goes into effect, or on the monthly billing statement or other documentation given to the purchaser. When a lease or rental contract is sold to another retailer, the seller of the lease or rental contract should provide to the purchaser of the lease or rental contract the documentation showing that the service contract and applicable sales taxes were separately stated at the time the lease or rental went into effect and the new retailer must retain the information to support an allocation for tax computed on the gross receipts subject to highway use tax. Like the tax imposed by G.S. 105-187.3, this alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on a retailer, but is to be added to the lease or rental price of a motor vehicle and thereby be paid by the person who leases or rents the vehicle.

(b) Rate. – The tax rate on the gross receipts from the short-term lease or rental of a motor vehicle is eight percent (8%) and the tax rate on the gross receipts from the long-term lease or rental of a motor vehicle is three percent (3%). Gross receipts does not include the amount of any allowance given for a motor vehicle taken in trade as a partial payment on the lease or rental price. The maximum tax in G.S. 105-187.3(a1) on certain motor vehicles applies to a continuous lease or rental of such a motor vehicle to the same person.

(c) Method. – A retailer who elects to pay tax on the gross receipts of the lease or rental of a motor vehicle shall make this election when applying for a certificate of title for the vehicle. To make the election, the retailer shall complete a form provided by the Division giving information needed to collect the alternate tax based on gross receipts. Once made, an election is irrevocable.

(d) Administration. – The Division shall notify the Secretary of Revenue of a retailer who makes the election under this section. A retailer who makes this election shall report and remit to the Secretary the tax on the gross receipts of the lease or rental of the motor vehicle. The Secretary shall administer the tax imposed by this section on gross receipts in the same manner as the tax levied under G.S. 105-164.4(a)(2). The administrative provisions and powers of the Secretary that apply to the tax levied under G.S. 105-164.4(a)(2) apply to the tax imposed by this section. In addition, the Division may request the Secretary to audit a retailer who elects to pay tax on gross receipts under this section. When the Secretary conducts an audit at the request of the Division, the Division shall reimburse the Secretary for the cost of the audit, as determined by the Secretary. In conducting an audit of a retailer under this section, the Secretary may audit any sales of motor vehicles made by the retailer. (1989, c. 692, s. 4.1; 1991, c. 79, s. 5; c. 193, s. 3; 1995, c. 410, s. 1; 2000-173, s. 10(b); 2001-424, s. 34.24(b); 2001-497, s. 2(c); 2014-3, s. 6.1(h); 2015-259, s. 5(e); 2016-92, s. 2.7; 2016-94, s. 38.5(k).)